

**Helium Stewardship Act of 2013
Public Scoping Meeting
March 6, 2014**

Statement of David Joyner, President, Air Liquide Helium America

My name is David Joyner and I am the President of Air Liquide Helium America, Inc. I am here today to discuss the important issues facing the domestic helium market as the Helium Stewardship Act of 2013 (the Act) is implemented by BLM. At the outset, I want to thank the management and staff at the BLM Field Office who have worked diligently with industry and in the interest of end users and taxpayers to implement the Act.

On January 16, 2014, Air Liquide participated in the first sale of crude helium from the Federal Helium Reserve since the Act's enactment and was awarded close to 11 MMcf. Since this sale, responses from the Refiners on the federal system continue to raise serious questions about whether the reforms contained in the Act will be effectively implemented and whether Congress' goals will be achieved. To date, no Refiner has replied to our requests for tolling with adequate committed available tolling services at commercially reasonable rates for volumes purchased in the recent IFO. If these issues are not addressed, up to 40 MMcf of helium could be effectively withheld from domestic end-users—a total that will only increase with each subsequent sale. Air Liquide, however, stands ready to serve the end user community upon finding a Refiner who is willing to toll this helium on a steady committed basis and at a true commercially reasonable rate. In response to this troubling situation, I'll confine my comments to four areas where we see a critical disconnect occurring in the Act's implementation.

I. Fixing the January 9th Excess Refinery Capacity Report

On January 9, 2014, the BLM published the "Refiner Estimated Excess Capacity" for 2014 and 2015, based on submissions from the Refiners, which claimed that the total excess refinery capacity was a mere 50 MMscf and that excess capacity for 2015 will only be 72 MMscf. Upon review, the numbers in this report grossly differ with published BLM data and other readily available data which reflects the availability of approximately 1 BCF per year of excess capacity.

The methodology for determining the reported excess refining capacity should be well defined and should include all refining capacity that is available above that of crude availability. Additionally, excess refining capacity should not be limited by temporarily turning off portions of refining capacity. Using these factors to limit reported capacity numbers would be in direct contravention of the Act.

If this issue is not addressed, Non-Refiners will lack any ability to refine federal crude helium and U.S. taxpayers and end-users will again suffer the consequences of a closed market for federal helium. The issue becomes even more critical this summer when over 250 MMscf of helium is available for Non-Refiners to bid upon and yet only 72 MMscf of available refining capacity is being reported which would block 178 MMscf of helium from reaching end users.

To prevent this result, we recommend that BLM reissue its request for data on refinery capacity with a defined consistent method of determining total refining capacity and excess refining capacity, as well as issue clear guidance to be sure that the above distortions are not taking place.

II. Ensuring Pipeline Access for Purchasers of Federal Crude Helium

Ensuring federal pipeline access for purchasers of crude helium is critical to ensuring the goals of the Act are achieved and that tolling can be obtained. The Act requires BLM to make “timely delivery” of crude helium through the Federal Helium Pipeline and that no other agreements in place shall interfere with that right to receive delivery of the helium. BLM officials have confirmed the intent to accomplish this in several discussions, but we believe it is essential for BLM to make this policy clear to all stakeholders to ensure that parties understand the rules and are properly incented to participate in tolling agreements. For example, one Refiner has already indicated that it refuses to even consider tolling any crude helium delivered through the Federal Helium Pipeline other than In-Kind volumes, which clearly runs counter to Congress’ and BLM’s intent with the Act.

III. Defining Commercially Reasonable Tolling Rates

To date, no Refiner has replied to our requests for tolling with adequate committed available tolling service at commercially reasonable rates for volumes purchased in the recent IFO. One Refiner has offered a rate for tolling services, which are only offered on an “as available” basis. Further, the rate offered is almost four times the rate for historical tolling services—well above what should be considered “commercially reasonable.” We urge BLM to deliver clear guidance to stakeholders on what are considered “commercially reasonable” tolling rates. Rates should be based on the market data that BLM receives, which includes pricing from past tolling agreements between all participants in the domestic helium market as well as the actual cost of tolling to ensure that there is no undue market distortion that would ultimately harm end-users and make the overall cost commercially impracticable.

IV. Preventing Disruption in Global Helium Prices

Finally, as BLM is aware, the BLM posted price for crude helium has been used as a benchmark in the global helium market. To prevent market disruption, the HSA requires BLM to establish separately a minimum sale and a minimum auction price, as well as continuing to post a representative price for Open Market and In-Kind crude helium so that end-users are not harmed by price fluctuations. Air Liquide strongly encourages BLM to implement this “posted” price provision in a way that establishes a predictable, repeatable and verifiable BLM crude price that will have lasting, stabilizing effects for the domestic and global helium community and that is not subject to the distortion in price related to this unique sale process. End users have indicated that the buy-down of this unique depleting reserve is completely disconnected to the market value that helium provides in their operation.

Thank you very much for your efforts to date and for the opportunity to share our views with you this morning, and I’d be happy to discuss further or address any questions that you may have.